

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION**

Plaintiff,

V.

ADVANCED CALL CENTER  
TECHNOLOGIES, LLC,

Defendant.

**Case No.: 8:18-cv-1484**

# PLAINTIFF'S COMPLAINT

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## INTRODUCTION

1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA").
2. Count II of Plaintiff's Complaint is based on Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code § 1788 et seq. ("RFDCPA").
3. Count III of Plaintiff's Complaint is based on the Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq. ("TCPA").

## JURISDICTION AND VENUE

4. This Court has jurisdiction under 28 U.S.C. §§ 1331, 1337, 1367, and 15 U.S.C. § 1692k, and 28 U.S.C. § 1367 grants this court supplemental jurisdiction over the state claims contained within.
5. This Court has federal question jurisdiction because this case arises out of violations of federal law. 47 U.S.C. § 227(b); *Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740 (2012).
6. Venue and personal jurisdiction in this District are proper because Defendant does or transacts business within this District, and a material portion of the events at issue occurred in this District.

## PARTIES

7. Plaintiff is a natural person residing in the City of Anaheim, Orange County, California.

1 8. Plaintiff is a consumer as that term is defined by the FDCPA and RFDCPA.

2 9. Plaintiff is, and at all times mentioned herein, a “person” as defined by the  
3 TCPA.

4 10. Plaintiff allegedly owes a debt as that term is defined by FDCPA and  
5 RFDCPA.

6 11. Defendant is a debt collector as that term is defined by FDCPA and RFDCPA.

7 12. Within the past year of Plaintiff filing this complaint, Defendant attempted to  
8 collect a consumer debt from Plaintiff.  
9

10 13. Defendant is a collection agency located in Berwyn, Chester County,  
11 Pennsylvania.  
12

13 14. Defendant is a business entity engaged in the collection of debt within the  
14 State under California.  
15

16 15. Defendant’s business includes, but is not limited to, collecting on unpaid,  
17 outstanding account balances.

18 16. When an unpaid, outstanding account is placed with Defendant it is assigned  
19 a file number.  
20

21 17. The principal purpose of Defendant’s business is the collection of debts  
22 allegedly owed to third parties.  
23

24 18. Defendant regularly collects, or attempts to collect, debts allegedly owed to  
25 third parties.

1 19. During the course of its attempts to collect debts allegedly owed to third  
2 parties, Defendant sends to alleged debtors bills, statements, and/or other  
3 correspondence, via the mail and/or electronic mail, and initiates contact with  
4 alleged debtors via various means of telecommunication, such as by  
5 telephone and facsimile.  
6

7 20. Defendant acted through its agents, employees, officers, members, directors,  
8 heirs, successors, assigns, principals, trustees, sureties, subrogees,  
9 representatives, and insurers.  
10

### 11 **FACTUAL ALLEGATIONS**

12 21. Defendant is attempting to collect an alleged consumer debt from Plaintiff  
13 originating with Wal-Mart.  
14

15 22. The alleged debt at issue arises from transactions for personal, family, and  
16 household purposes.  
17

18 23. Within four (4) years of Plaintiff filing this Complaint, Defendant placed  
19 collection calls to Plaintiff's cellular telephone number at xxx-xxx-1034 in  
20 an attempt to collect the alleged debt from Plaintiff.  
21

22 24. Defendant called Plaintiff from 866-445-6548 and 866-268-8605, which are  
23 two of Defendant's telephone numbers.  
24

25 25. On or around July 10, 2018, Plaintiff spoke with one of Defendant's  
collectors and requested for Defendant to stop calling him.

1 26.Despite Plaintiff's request to stop calling, Defendant continued to place  
2 collection calls to Plaintiff's telephone including, but not limited to, on or  
3 around July 12, 2018.

4 27.On or around July 12, 2018, one of Defendant's collectors threatened that  
5 Defendant would not stop calling until Plaintiff makes a payment.  
6

7 28.Prior to calling Plaintiff's cellular telephone, Defendant knew the number  
8 was a cellular telephone number.  
9

10 29.All of the calls Defendants made to Plaintiff's cellular telephone resulted in  
11 Plaintiff incurring a charge for incoming calls.

12 30.During at least one conversation, Defendant learned that Plaintiff wanted  
13 Defendant to stop calling Plaintiff's cellular telephone.  
14

15 31.Even if at one point Defendant had permission to call Plaintiff's cellular  
16 telephone, Plaintiff revoked this consent.

17 32.Defendant continued to call Plaintiff's cellular telephone after Defendant  
18 knew Plaintiff wanted the calls to stop.  
19

20 33.Within 4 years of Plaintiff filing this Complaint, Defendant used an automatic  
21 telephone dialing system to call Plaintiff's cellular telephone.

22 34.Within 4 years of Plaintiff filing this Complaint, Defendant called Plaintiff's  
23 cellular telephone in predictive mode.  
24

25 35.The telephone dialer system Defendant used to call Plaintiff's cellular

1 telephone has the capacity to store telephone numbers.

2 36.The telephone dialer system Defendant used to call Plaintiff's cellular  
3 telephone has the capacity to call stored telephone numbers automatically.

4 37.The telephone dialer system Defendant used to call Plaintiff's cellular  
5 telephone has the capacity to call stored telephone numbers without human  
6 intervention.

7 38.The telephone dialer system Defendant used to call Plaintiff's cellular  
8 telephone has the capacity to call telephone numbers in sequential order.

9 39.The telephone dialer system Defendant used to call Plaintiff's cellular  
10 telephone has the capacity to call telephone numbers randomly.

11 40.The telephone dialer system Defendant used to call Plaintiff's cellular  
12 telephone selects telephone numbers to be called according to a protocol or  
13 strategy entered by Defendant.

14 41.The telephone dialer system Defendant used to call Plaintiff's cellular  
15 telephone simultaneously calls multiple consumers.

16 42.While Defendant called Plaintiff's cellular telephone, Plaintiff's cellular  
17 telephone line was unavailable for legitimate use during the unwanted calls.

18 43.Defendant's calls constitute calls that are not for emergency purposes as  
19 defined by 47 U.S.C. § 227(b)(1)(A).

20 44.As a result of Defendant's alleged violations of law by placing these  
21  
22  
23  
24  
25

1 automated calls to Plaintiff's cellular telephone without prior express consent,  
2 Defendant caused Plaintiff harm and/or injury such that Article III standing is  
3 satisfied in at least the following, if not more, ways:

- 4 a. Invading Plaintiff's privacy;  
5  
6 b. Electronically intruding upon Plaintiff's seclusion;  
7  
8 c. Intrusion into Plaintiff's use and enjoyment of Plaintiff's cellular  
9 telephone;  
10  
11 d. Impermissibly occupying minutes, data, availability to answer another  
12 call, and various other intangible rights that Plaintiff has as to complete  
13 ownership and use of Plaintiff's cellular telephone; and  
14  
15 e. Causing Plaintiff to expend needless time in receiving, answering, and  
16 attempting to dispose of Defendant's unwanted calls.

17 **COUNT I**  
18 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES**  
19 **ACT**

20 45. Defendant violated the FDCPA based on the following:

- 21 a. Defendant violated § 1692d of the FDCPA by engaging in conduct the  
22 natural consequences of which is to harass, oppress, and abuse Plaintiff  
23 in connection with the collection of an alleged debt, when Defendant  
24 continued to place collection calls to Plaintiff after Plaintiff requested  
25 Defendant stop calling him;

1 b. Defendant violated § 1692d(5) of the FDCPA by causing a telephone  
2 to ring or engaging any person in telephone conversation repeatedly or  
3 continuously with intent to annoy, abuse, or harass any person at the  
4 called number, when Defendant continued to place collection calls to  
5 Plaintiff after Plaintiff requested Defendant stop calling him;  
6

7 c. Defendant violated § 1692e of the FDCPA by its use of any false,  
8 deceptive, or misleading representation or means in connection with  
9 the collection of any debt, when Defendant created the false impression  
10 on Plaintiff that Defendant was permitted to call Plaintiff with  
11 impunity despite Plaintiff's request for Defendant to stop calling him;  
12 and  
13

14 d. Defendant violated § 1692f of the FDCPA by using unfair or  
15 unconscionable means to collect any debt, when Defendant engaged in  
16 the foregoing conduct.  
17

18 WHEREFORE, Plaintiff, ZACHARY BRANCH, respectfully requests  
19 judgment be entered against Defendant, ADVANCED CALL CENTER  
20 TECHNOLOGIES, LLC, for the following:  
21

22 46. Statutory damages of \$1,000.00 pursuant to the Fair Debt Collection  
23 Practices Act, 15 U.S.C. § 1692k;  
24  
25



1 47.Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection  
2 Practices Act, 15 U.S.C. § 1692k; and

3 48.Any other relief that this Honorable Court deems appropriate.

4 **COUNT II**  
5 **DEFENDANT VIOLATED THE ROSENTHAL FAIR DEBT**  
6 **COLLECTION PRACTICES ACT**

7 45.Plaintiff repeats and re-alleges paragraphs 1-44 of Plaintiff's Complaint as  
8 the allegations in Count II of Plaintiff's Complaint.

9 46.Defendant violated the RFDCPA based on the following:

- 10 a. Defendant violated the §1788.11(d) by causing a telephone to ring  
11 repeatedly or continuously to annoy the person called, when Defendant  
12 continued to place collection calls to Plaintiff after Plaintiff requested  
13 Defendant stop calling him;  
14  
15 b. Defendant violated the §1788.11(e) by communicating by telephone  
16 with the debtor with such frequency as to be unreasonable and to  
17 constitute harassment to the debtor under the circumstances, when  
18 Defendant continued to place collection calls to Plaintiff after Plaintiff  
19 requested Defendant stop calling him; and  
20  
21 c. Defendant violated the §1788.17 of the RFDCPA by continuously  
22 failing to comply with the statutory regulations contained within the  
23 FDCPA, 15 U.S.C. § 1692 et seq. as detailed above in Count I.  
24  
25

1 WHEREFORE, Plaintiff, ZACHARY BRANCH, respectfully requests  
2 judgment be entered against Defendant, ADVANCED CALL CENTER  
3 TECHNOLOGIES, LLC, for the following:

4 47. Statutory damages of \$1,000.00 pursuant to the Rosenthal Fair Debt  
5 Collection Practices Act, Cal. Civ. Code § 1788.30(b);

6 48. Costs and reasonable attorneys' fees pursuant to the Rosenthal Fair Debt  
7 Collection Practices Act, Cal. Civ Code § 1788.30(c); and

8 49. Any other relief that this Honorable Court deems appropriate.  
9  
10

11 **COUNT III**  
12 **DEFENDANT VIOLATED THE TELEPHONE CONSUMER**  
13 **PROTECTION ACT**

14 45. Plaintiff repeats and re-alleges paragraphs 1-44 of Plaintiff's Complaint as  
15 the allegations in Count III of Plaintiff's Complaint.

16 46. Defendant's conduct violated the TCPA by:

- 17 a. Placing non-emergency telephone calls to Plaintiff's cellular telephone  
18 using an automatic telephone dialing system and/or pre-recorded or  
19 artificial voice in violation of 47 U.S.C. § 227 (b)(1)(A)(iii).  
20  
21

22 WHEREFORE, Plaintiff, ZACHARY BRANCH, respectfully requests  
23 judgment be entered against Defendant, ADVANCED CALL CENTER  
24 TECHNOLOGIES, LLC, for the following:  
25

1 47.As a result of Defendant's negligent violations of 47 U.S.C. § 227(b)(1),  
2 Plaintiff is entitled to and requests \$500.00 in statutory damages, for each and  
3 every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

4 48.As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §  
5 227(b)(1), Plaintiff is entitled to and requests treble damages, as provided by  
6 statute, up to \$1,500.00, for each and every violation, pursuant to 47 U.S.C.  
7 §227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

8 49.Plaintiff is entitled to and seeks injunctive relief prohibiting such conduct in  
9 the future.

10 50.Any other relief that this Honorable Court deems appropriate.

11  
12  
13  
14  
15 RESPECTFULLY SUBMITTED,

16  
17 DATED: August 21, 2018

18 AGRUSS LAW FIRM, LLC

19 By:/s/ Michael S. Agruss

20 Michael S. Agruss

21 Attorney for Plaintiff

22 ZACHARY BRANCH  
23  
24  
25